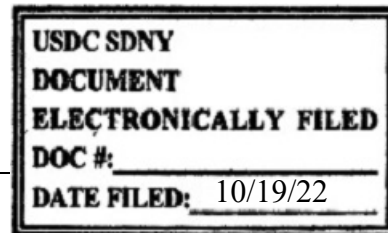


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October 18, 2022

The Honorable Barbara Moses  
United States District Court, Southern District of New York  
500 Pearl Street  
New York, NY 10007

**MEMO ENDORSED**

**Rhuland Davis v. Metro North Commuter Railroad et. al., 21 Civ. 387**

Judge Moses,

I represent Plaintiff Rhuland Davis in the above-captioned matter and write on behalf of all parties to request an extension to the discovery schedule in this matter.

This matter was initially filed pro se in January 2021. Defendants then moved to dismiss, there were a number of rounds of extensions to the briefing schedule, Plaintiff Amended the Complaint, and then Defendants refiled their motion to dismiss. Accordingly, the initial case management conference in this matter occurred on April 28, 2022, and the undersigned counsel for Plaintiff appeared in this matter a few weeks prior. The initial fact discovery deadline was August 2022, and the initial deadline for all discovery was November 15, 2022.

In May 2022, Plaintiff voluntarily withdrew certain claims that were at issue in Defendants' Motion to Dismiss. Shortly thereafter, counsel for Plaintiff came down with Covid-19, the recovery from which was a slog and slowed down discovery. Judge Ramos issued a decision on Defendants' Motion to Dismiss on June 21, 2022, with leave for Plaintiff to replead two of the causes of action at issue on the motion. After an extension, Plaintiff filed a Second Amended Complaint on August 19, 2022. Accordingly, the pleadings in this matter were not even settled until after the initial fact discovery deadline.

On August 8, 2022, your Honor issued a revised Case Management Order with a new fact discovery deadline of November 11, 2022, and a deadline for all discovery of February 10, 2023. On October 6, 2022, Defendants filed a Second Motion to Dismiss, and subsequently requested a stay to discovery pending resolution of that motion – which stay request was opposed by Plaintiff – that is currently pending.

Leaving aside the amendments to the pleadings and motion practice which has consumed some substantial time in this matter, the parties have made much progress in discovery over the past months. Both sides have produced multiple rounds of paper discovery, including the production of documents relevant to Plaintiffs' pension which required the issuance of a release.

Upon my review of Defendants' most recent round of paper production, it has become clear that Plaintiff will need to take discovery from at least one third party – namely his former union – and that will require both document requests (whether on consent or via subpoena) and additional depositions beyond those initially contemplated in this matter. Plaintiff's list of party-deponents has also grown upon review of Defendants' most recent round of paper production. It has also been difficult to pin down deposition dates with the uncertainty surrounding Defendants' stay request and Defendants' Second Motion to Dismiss.

Accordingly, the parties respectfully request the following extensions to the discovery schedule so that third-party discovery, depositions, and any mop-up of paper discovery issues can be completed before the close of fact discovery:

	<b>Existing Deadline</b>	<b>Requested Deadline</b>
Fact Depositions:	October 28, 2022	January 27, 2023
Fact Discovery:	November 11, 2022	February 10, 2023
Expert disclosure:	December 16, 2022	March 10, 2023
Rebuttal expert disclosure:	January 20, 2023	April 10, 2023
Expert depositions:	February 10, 2023	May 5, 2023
All discovery:	February 10, 2023	May 5, 2023

The parties have factored into this proposed schedule the upcoming holiday season, and believe that the above dates are the soonest the parties can realistically expect to complete all discovery in this matter.

Thank your for your attention to this matter.

Application GRANTED. Defendant's motion to stay discovery (Dkt. 62) is DENIED. No further extensions of the discovery deadlines will be granted absent compelling circumstances. SO ORDERED.



Barbara Moses  
United States Magistrate Judge  
October 19, 2022

Very truly yours,

/s/

Joshua Alexander Bernstein